



COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201143028

AUG 03 2011

Uniform Issue List: 408.03-00

T:EP:RA:T3

Legend:

Taxpayer A:

Roth IRA X:

Amount M:

Date 1:

Date 2:

Date 3:

Financial Institution N:

Bank S:

Corporation C:

Note C:

Dear :

This is in response to a letter dated March 15, 2011, and as supplemented by a letter dated May 17, 2011, submitted on your behalf by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("the Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A maintained a Roth Individual Retirement Account (IRA), Roth IRA X held in trust by Financial Institution N. Taxpayer A, age 62, asserts that he authorized a wire transfer of Amount M from Roth IRA X to Bank S as escrow agent for an investment in a note of Corporation C, Note C, which was intended to be held as an investment in Roth IRA X. Due to an error committed by the transfer agent of Financial Institution N, the amount was instead treated as a distribution from Roth IRA X. Taxpayer A asserts that his failure to accomplish a rollover of Amount M within the 60-day period prescribed by section 408(d)(3) of the Code was due to the error by the transfer agent of Financial Institution N. Taxpayer A further represents that Amount M has not been used for any other purpose.

Taxpayer A represents that on Date 1 he authorized a wire transfer of Amount M from Roth IRA X held in trust at Financial Institution N to purchase a qualified investment in Note C as an asset of Roth IRA X. Taxpayer A provided instructions in the wire transfer authorization that Taxpayer A intended that the new investment in Note C should be held as an asset of Roth IRA X.

However, upon receipt of the Date 2 wire transfer of Amount M, Corporation C did not register the Amount M investment in Note C in the name of Roth IRA X but instead sent Note C to the clearing agent of Financial Institution N which did not register Note C correctly.

Financial Institution N has submitted a letter dated Date 3 which admits that Taxpayer A's instructions were not followed and which states that the investment in Note C has been re-titled in the name of Roth IRA X and has not been used for any other purpose.

Taxpayer A did not learn of the Financial Institution N error until after the 60-day rollover period had expired.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount M.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Section 408A(c)(6) of the Code provides that no rollover contribution may be made to a Roth IRA unless it is a qualified rollover contribution.

Section 408A(e)(1) provides in pertinent part that the term "qualified rollover contribution" means a rollover contribution to a Roth IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3).

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2)

inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a rollover of Amount M within the 60 day period prescribed by section 408(d)(3) of the Code was due to an error by the transfer agent of Financial Institution N in not following the instructions of Taxpayer A regarding proper titling of the notes.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the inadvertent distribution of Amount M from Roth IRA X. Provided all other requirements of Code section 408(d)(3), except the 60-day requirement, were met, retitling of the notes by Financial Institution N will be considered a rollover contribution within the meaning of Code section 408(d)(3).

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

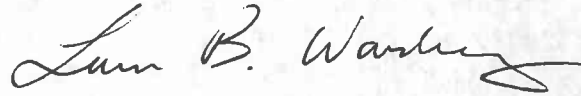
A copy of this letter ruling is sent to your authorized representative pursuant to the provisions of a Power of Attorney on file in this office.

201143028

If you have any questions, please contact
phone at fax at

() by

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted Copy of Ruling Letter
Notice of Intention to Disclose

cc: